



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable George H. Sheppard  
Comptroller of Public Accounts  
Austin, Texas

Dear Sir:

Opinion No. O-7363

Re: Proper procedure in  
assessing, levying  
and collecting ad  
valorem taxes on the  
property in question,  
which is not in any  
county, and is not  
attached to any county  
for the purpose of  
taxation.

We have given careful consideration to your  
request for opinion on the captioned subject, which  
reads as follows:

"The question has arisen in this de-  
partment as to the proper procedure in  
assessing, levying and collecting ad valorem  
taxes on property in the Gulf of Mexico,  
which is not contained in the boundaries of  
Galveston County or any other county and is  
not specifically attached to any county for  
the purpose of taxation.

"The property in question has been leased  
by the General Land Office to a certain Oil  
Company, and the Oil Company now has production  
on said lease and desires to pay the ad valorem  
taxes accruing to the State. It is our under-  
standing that the Oil Company will deny liability  
as to any county or subdivision tax.

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"I shall thank you to advise me the proper procedure to follow in making the assessment, levy and collection."

By treaty with Spain in the year 1819, the United States expressly renounced all claim to the territory which is now the State of Texas. While a sovereign nation, and prior to her annexation, Texas declared by act of her Congress, that civil and political jurisdiction of the Republic of Texas extended to the following boundary along the sea-coast:

"Beginning at the mouth of the Sabine River, and running West along the Gulf of Mexico three leagues from land to the mouth of the Rio Grande . . ." 1 Gammel's Laws, 1193.

Thereafter, the annexation of the Republic of Texas was accomplished by a joint resolution of Congress, wherein it was provided that:

"Said state, when admitted into the Union, . . . shall retain all the public funds, debts, taxes, and dues of every kind which may belong to or be due and owing said Republic; and shall also retain all the vacant and unappropriated land lying within its limits, to be applied to the payment of the debts and liabilities of said Republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said state may direct . . ."

Galveston County was created by an Act of the Congress of the Republic of Texas on May 15, 1838. 1 Gammel's Laws 1483. The boundaries were redefined in 1839, and again in 1841, which latter delineation remains in effect. The calls begin at a point "on the shores of the Gulf of Mexico," and after setting the east, north and west lines of the county, the act continues:

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" . . . thence eastwardly along the Gulf shores, to the place of beginning." (Emphasis added).

It is apparent, then, that the submerged lands between the shores of the Gulf of Mexico and the three league limit are territory of the State but are not included in the limits of any county.

Article VIII, Section 1 of the Constitution of Texas provides that:

" . . . All property in this State . . . shall be taxed in proportion to its value, which shall be ascertained as may be provided by law . . . "

Section 11 of Article VIII provides that:

"All property, whether owned by persons or corporations shall be assessed for taxation, and the taxes paid in the county where situated, . . . And all lands and other property not rendered for taxation by the owner thereof shall be assessed at its fair value by the proper officer."

Section 12 of Article VIII provides that:

" . . . Lands lying in the territory not laid off into counties shall be assessed and the taxes thereon collected at the office of the Comptroller of the State."

Pursuant to these Constitutional provisions the Legislature has enacted the following:

Article 7226, providing that " . . . Lands lying in the territory not laid off into counties, shall be assessed by the Comptroller in accordance with such regulations as he may adopt and establish for that purpose."

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Article 7231, which provides:

"Assessment of lands rendered to the Comptroller under the provisions of this chapter shall be made by the party rendering the same under oath as to their value; but if the Comptroller thinks the valuation too low he shall object; and if the Comptroller and the party rendering the land cannot agree, then the Comptroller shall assess the same at such value as he may think it is worth; and, if the party rendering feels that the assessment is too high, he may appeal to the board of equalization, which for such purposes shall consist of the Governor, Attorney General and the Secretary of State, and their decision shall be final."

Article 7293, which provides that "The taxes . . . upon lands situated in the territory not laid off into counties, shall be paid and collected at the office of the Comptroller, under such regulations as he may adopt for that purpose."

These constitutional and statutory provisions set out all the essentials of the assessing and collecting structure on the taxable interests in land in the territory in question. The details and mechanics are left to the Comptroller's rule-making power given him by the statutes quoted.

The levying of the tax on the territory inquired about is included in the levy fixed by the board provided for in Article 7041, which is composed of the Governor, the Comptroller and the State Treasurer. A levy of taxes, as is pointed out by Cooley, is the act which fixes the subject and rate of taxation. III Cooley Taxation (4th Ed.) 2044, Sec. 1012. The subject of taxation is fixed by Article VIII, Section 1, of the Constitution and Article 7043, viz., "all property within this State," and only the fixing of the rate is delegated to the board according to the formula set out in said Article 7043. This rate so fixed is applicable to the territory here considered.

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We trust that the foregoing sufficiently answers  
your inquiries.

Yours very truly

ATTORNEY GENERAL OF TEXAS

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